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Finding the Way Home

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‘If you don’t have a home, you don’t have anything... Home means *love, family and security*. Without a home you can’t invest in your future.’

...

Mariam Ahmed, Housing Campaigner

Classical Approaches to Property

‘In order for a specific form of ownership to exist in society, the rules which define or constitute the relation must be acknowledged [and certain] by the members of the society.’ J Grunebaum, *Private Ownership*

What do we get as owners?

1. The right to use;
2. The right of exclusion; and
3. Absence of term.

Is it a House or a Home?

- *Semayne's Case* (1604).
- *Entick v Carrington* (1765) places a focus upon the privacy which flows from the physical space of a house and a proprietary interest.
- *Attia v British Gas* (1988) demonstrates the potential effects of a change of position from house to home.
- *Uratemp Ventures v Collins* (2001) 'the home forms the centre of one's existence'.
- *R (On the Application of N) v Lewisham LBC* (2014).

‘This has been her home and her mother's home. There is huge emotional investment in it... there is nothing... to gain from this save the protection of her emotional security *which is, of course, an interest I cannot protect.*’

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Le Foe v Le Foe [2001] EWCA Civ 1870

What do we associate with the Home?

‘The home is... central to the rootedness, continuity, security, social and family relationships, and cultural context that make up the self.’ Jessie Hohmann, *The Right to Housing*

According to Fox, the Home involves the following:

1. Financial asset;
2. Physical space;
3. Territory;
4. Identity;
5. Social and cultural unit

Developing a uniform concept of the Home

The European Court of Human Rights have 'developed an autonomous notion of the "home"... not hindered by classifications under domestic law. Not the legal facade – form of tenure or legality of habitation – but the facts behind it are decisive. Function overrules form.' Antoine Buyse, *Strings Attached*.

'Sufficient and continuing links.' *Gillow v United Kingdom* and *Buckley v United Kingdom*

‘Art.8... concerns rights of central importance to the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community.’

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Connors v United Kingdom (2005) 40 E.H.R.R. 9

Utilising the European Court of Human Rights Jurisprudence

- Section 2 of the Human Rights Act 1998 requires courts to 'take account' of the judgments and opinions of the European Court of Human Rights.
- Section 3 of the Human Rights Act 1998 requires legislation to be read in a Convention compliant manner 'so far as it is possible'.
- Arriving at a uniform and wide-ranging idea of the Home.